Filed 1/23/19 Marriage of Flint and Sinnathamby CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re Marriage of TANYA and WESLEY SINNATHAMBY.	B277154 (Los Angeles County Super. Ct. No. BD595848)
TANYA FLINT, Respondent, v. WESLEY SINNATHAMBY, Appellant.	

APPEAL from an order of the Superior Court of Los Angeles County, Laura A. Seigle, Judge. Affirmed.

Wesley Sinnathamby, in pro. per.; Masson & Fatini, Richard E. Masson, for Appellant.

Tanya Flint, in pro. per., for Respondent.

When appellant Wesley Sinnathamby and respondent Tanya Flint divorced by consent order in Hong Kong, they agreed to relocate to Los Angeles with their children, register their consent order in a Los Angeles court, and "use their best endeavors" to secure (separate) employment. Tanya did not obtain a job once in Los Angeles, and she eventually sought an order compelling Wesley to pay child support. We are asked to decide (a) whether the family court abused its discretion when it calculated a child support award without imputing any income to Tanya on the basis of her earning capacity, and (b) whether the family court improperly restricted Wesley's right to present evidence in support of his position.

I. BACKGROUND

A. Relocation, Divorce, and Job Applications

Tanya and Wesley married in 1996 and had two daughters, born in 2003 and 2005. From the early 1990s until 2012, Tanya held a variety of positions in the contract management, information technology, and accounting fields. Her annual earnings at one point exceeded $200,000. In May 2011, Tanya was diagnosed with breast cancer, and she underwent medical treatment. She experienced complications relating to her treatment in 2012 and 2013, which required further treatment and hospitalization.

In the summer of 2012, Wesley and Tanya relocated with their daughters to Hong Kong because Wesley accepted a two-year assignment from his employer, IBM, to work there. The couple separated in January 2013 and agreed to dissolve their marriage pursuant to a consent order, which was filed in a Hong Kong court in January 2014.

The consent order contemplated the parties would relocate to Los Angeles, where they would "obtain a Mirror Order . . . to ensure that the terms of [the consent] order and the parties' agreement [were] binding in accordance with California[ ] law." The consent order required Wesley to pay Tanya $50,000 between January and June 2014 to cover relocation costs for her and the children. The parties agreed child support would otherwise be determined later by mutual agreement or by a Los Angeles court. Wesley and Tanya further agreed they would each "use their best endeavours to find employment in Los Angeles with the view of [each party] having secured employment within 6 months of arriving in Los Angeles, provided that [Tanya] ha[d] completed all . . . surgery to be booked on the first available date in accordance with medical advice and [wa]s medically diagnosed to be in a fit condition to work."

Tanya registered the Hong Kong consent order in California in February 2014. That same year, she submitted her resume to recruiters and applied for three jobs. In the summer of 2014, she became pregnant (Wesley was not the father), and she had a son in March 2015.

Tanya's doctor certified she was unable to work from March 2015 until early July 2015. During that year, Tanya applied for five open positions and submitted applications for an additional two that had no current openings. In January through March of 2016, Tanya applied for 22 jobs. Tanya's job applications in 2014 and 2015 resulted in several interviews but no offers; her 2016 applications did not generate any interviews.

B. Tanya's Request for Child Support

In December 2014, Tanya filed a request for an order of child support in family court. In the spring of 2015, Wesley paid a vocational economic analyst, Phillip Sidlow (Sidlow), to evaluate Tanya's earning capacity. Based on information provided by Wesley (including Tanya's resume and W-2 statements) Sidlow submitted a declaration opining Tanya could earn $180,000 per year, there were jobs currently available for someone with her background, and the average job search would take three to six months. Wesley thereafter filed a request for order that sought a vocational assessment of Tanya, imputation of income to her retroactive to November 2014, and orders of contempt and sanctions against her for failing to comply with the Hong Kong consent order. Wesley's request for order noted Sidlow was available to testify as an expert witness.

In December 2015, the family court appointed Susan Miller (Miller) as an expert vocational examiner "to analyze [Tanya's] job opportunity and job availability from the period of November 21, 2014 [through] the present." The court denied a motion from Wesley to depose Tanya, reasoning "[t]he vocational examination [of Tanya would] flesh out the issues of imputation" and expressing "concern[ ] after observing the conduct of the parties that [deposing Tanya would] not be helpful at this time."

Prior to a hearing that had been set to decide child support and the imputation of income, Wesley submitted a brief arguing Tanya had not made a "meaningful effort" to obtain employment since 2012. Wesley asserted Tanya's refusal to work left him shouldering more than $60,000 in medical and legal costs that were supposed to be allocated equally between them both. Tanya submitted a responsive declaration averring she made her best

efforts to find work under the circumstances, which included her pregnancy and the time she spent with nearly full physical custody of their daughters from December 2014 to August 2015. Tanya contended imputing income to her would not be in the daughters' best interest because it would effectively reduce the amount of support provided to them. Tanya also asserted Wesley's behavior toward the children caused them to suffer from "anxiety, depression and cognitive dissonance" and required "special caretaking" by Tanya that left her with less time to work outside of the home.

Miller, the court-appointed vocational expert, submitted a report based on an interview with Tanya, an examination of her background and experience, and an assessment of the local labor market. Miller determined job opportunities were available to Tanya and, factoring in her period of unemployment, found she had an earning capacity of someone with ten years of experience as a contracts manager, project manager in enterprise resource planning, IT procurement officer, or strategic planning director. Median annual salaries in 2016 for a person with ten years of experience in these areas ranged from approximately $123,400 to $164,400. Miller listed 14 job postings in May 2016 for which Tanya might qualify and suggested training opportunities that might assist her in landing a position. Only two of the listed postings included proposed salaries—one offering $100,000 and the other $150,000. Miller said an average job search could take three to nine months.

C. Child Support Hearing and Decision

At the child support hearing in July 2016, Wesley and Tanya each represented themselves and answered questions from

the judge under oath. Tanya stated she wanted to be financially independent but had been unable to obtain a position despite her efforts. She surmised she might need "some training to retool [her]self" in light of the time she had been out of the workforce. She also emphasized her obligations to take care of her children, including an infant, made it more difficult to secure employment.

The family court asked Tanya about her job search efforts in 2015. Tanya said she had given birth in March of that year and complications from the birth prevented her from actively applying for work until the latter part of the year. Wesley responded by arguing the evidence showed Tanya had applied to just a handful of jobs, which was not a reasonable effort to obtain employment considering the expert evidence. Wesley said Sidlow, the vocational economic analyst he hired, could testify to there being hundreds of jobs paying $150,000 to $160,000 available to Tanya. The court asked Wesley what specific job openings Sidlow had identified in 2015 and Wesley referred to positions Sidlow identified in April of that year.[1]

The family court also questioned Tanya about three of the positions Miller identified as available in May 2016. Tanya testified she was not qualified for two of them: One preferred "PMI verification," which Tanya lacked, and she said the other position was for someone with technical IT experience, which she did not have. Tanya agreed she was qualified for the third position and said she had worked hard to obtain it—including by contacting people she knew at the company—but her efforts were

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[1] The family court noted, however, that Tanya had a baby in mid-March, which meant she would have been on maternity leave in April.

unsuccessful. Tanya testified she had applied to "[p]robably 40 or 50 jobs" in 2016.

The family court found Tanya had made reasonable efforts to secure employment. The court stated, however, it would require her to "redouble those efforts" going forward and submit regular reports to Wesley documenting her job applications and their status. The court ordered Wesley to pay child support in arrears, as of January 2015, and did not impute any income to Tanya in calculating the amount of support. Because Wesley's job at IBM was being terminated and Tanya remained unemployed, the court did not order either party to pay child support as of July 2016.[2]

II. DISCUSSION

Wesley contends the family court should have imputed income to Tanya because evidence before the court established she had the opportunity and ability to work and Tanya failed to show she had made reasonable efforts—much less "best endeavours"—to secure a job. Wesley believes the court viewed Tanya's job opportunities too narrowly and improperly took into account Tanya's parenting responsibilities when considering her job-seeking efforts. Wesley additionally submits that the family

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[2] In her respondent's brief on appeal, Tanya asserts Wesley misrepresented his employment and financial status and asks this court to "review the facts and circumstances and make appropriate findings and/or sanctions against Wesley as it sees fit." There is no indication Tanya appealed from the trial court's decision to refrain from ordering Wesley to pay child support as of July 2016 and there is therefore no basis for us to review matters relating to that decision.

court deprived him of due process by denying him the opportunity to present evidence that would support imputing income to Tanya—which he says he would have done by conducting discovery, calling Sidlow or Miller to testify, and cross-examining Tanya.

Wesley's substantive and procedural arguments are not persuasive. The family court's determination that Tanya made reasonable efforts to obtain employment in 2015 and 2016 was not an abuse of its discretion, and the court was allowed to give some consideration to Tanya's parenting obligations in making its determination. As to Wesley's claims of a due process violation, the court's limits on discovery were within its discretion to impose, particularly because the discovery Wesley sought was irrelevant to imputation of income. Wesley also largely if not entirely failed to preserve the claims of error he now raises regarding cross-examination of Tanya and calling expert witnesses to testify, and the claims are unavailing in any event because he would not have achieved a more favorable result but for the asserted errors.

A. The Court Did Not Abuse Its Discretion in Declining to Impute Income

We must affirm the family court's decision not to impute income for purposes of determining child support unless Wesley shows the court abused its discretion. (*In re Marriage of Destein* (2001) 91 Cal.App.4th 1385, 1393 (*Destein*).) "'[W]e consider only "whether the court's factual determinations are supported by substantial evidence and whether the court acted reasonably in exercising its discretion."'" (*In re Marriage of McHugh* (2014) 231 Cal.App.4th 1238, 1247 (*McHugh*).)

The family court calculates a presumptively correct award of child support by applying a uniform guideline, which takes into account each parent's income and other considerations. (Fam. Code, §§ 4055, 4057, subd. (a).) "The court may, in its discretion, consider the earning capacity of a parent in lieu of the parent's income, consistent with the best interests of the children." (Fam. Code, § 4058, subd. (b).) Earning capacity encompasses two components: ""'*the ability to work*, including such factors as age, occupation, skills, education, health, background, work experience and qualifications . . . and . . . *an opportunity to work* . . . .'"" (*McHugh*, *supra*, 231 Cal.App.4th at p. 1246; see also *In re Marriage of Simpson* (1992) 4 Cal.4th 225, 234 ["for purposes of determining support, 'earning capacity' represents the income the spouse is reasonably capable of earning based upon the spouse's age, health, education, marketable skills, employment history, and the availability of employment opportunities"].)

A parent who seeks to impute income to the other bears the burden of showing "the other parent has the ability or qualifications to perform a job paying the income to be imputed and the opportunity to obtain that job, i.e., there is an available position." (*McHugh*, *supra*, 231 Cal.App.4th at p. 1247; see also *In re Marriage of Bardzik* (2008) 165 Cal.App.4th 1291, 1305 [the "burden does *not* include actually showing that the parent to whom the income would be imputed *would* have gotten a given job *if* he or she had applied"].) The other parent may rebut a showing of earning capacity by "show[ing] that, despite reasonable efforts, [he or] she could not secure employment despite [his or] her qualifications." (*In re Marriage of LaBass & Munsee* (1997) 56 Cal.App.4th 1331, 1339 (*LaBass*); see also *In re*

Marriage of Cohn (1998) 65 Cal.App.4th 923, 929 ["a spouse who is otherwise shown to have the ability and willingness to achieve a higher income level could . . . negate the 'opportunity' element (and thereby prevent the imputation of income) by establishing that no one was willing to hire him or her despite reasonable efforts to find work"].)

A court inclined to impute income to a parent need not find that parent deliberately remains unemployed or underemployed in bad faith. (*In re Marriage of Hinman* (1997) 55 Cal.App.4th 988, 998 (*Hinman*); see also *Moss v. Superior Court* (1998) 17 Cal.4th 396, 424.) But in exercising its discretion to impute income, "the court may consider arguments concerning the [proposed] payor's motivations or the reasonableness of the [proposed] payor's actions in light of all the relevant circumstances." (*Hinman*, *supra*, at p. 999.)

The family court did not abuse its discretion when it declined to impute income to Tanya because there is substantial evidence Tanya made reasonable efforts to secure employment. Considering first Tanya's efforts in 2016, Wesley does not dispute evidence she applied to more than 20 open positions between January and March, and Tanya testified she applied to another 20 to 30 jobs between March and July. This is not, therefore, a case in which the parent to whom income was sought to be imputed made negligible efforts to seek employment for which the parent was qualified. (See, e.g., *Hinman*, *supra*, 55 Cal.App.4th at pp. 993-994; *LaBass*, *supra*, 56 Cal.App.4th at pp. 1335-1336.)

Tanya admittedly did significantly less to secure employment in 2015 than she did in 2016. But the family court's determination that her efforts were reasonable under the

circumstances is supported by substantial evidence. (See *Hinman*, *supra*, 55 Cal.App.4th at p. 999 [court may consider relevant circumstances in assessing reasonableness].) Tanya gave birth in March of 2015 and was medically restricted from working until early July. She testified that she needed six months to recover after the birth because of delivery-related complications. The family court reasonably (albeit lamentably) concluded that "most people are not going to hire somebody who is eight or nine months pregnant" and the court properly inferred "[i]t's not reasonable to expect somebody who has just had a baby to be out looking for a job." The court heard evidence that Tanya applied for seven positions in 2015, and the court was within the bounds of its discretion to determine those efforts were reasonable under the circumstances.

Wesley's various counterarguments are all unavailing. He asserts, for instance, the family court erred by considering only two of the 14 jobs Miller reported as being available to Tanya and by taking an unduly restrictive view of the types of work Tanya could obtain. Both points are unsupported by the record. While it is true the court initially focused on the two job opportunities with posted salaries identified by Miller, the court took a more expansive view after Wesley remarked that job postings frequently omit salary information. And with respect to the types of jobs Tanya might seek, the record does not support Wesley's contention that the court misunderstood Tanya's qualifications or job requirements.

Even if Wesley's arguments did find support in the record, they relate to the court's determination of Tanya's ability and opportunity to work, not the reasonableness of her search efforts. We accept for purposes of analysis that Wesley met his burden of

establishing Tanya had an ability and opportunity to work. Meeting that burden, however, simply allowed the court to exercise its discretion to consider earning capacity in lieu of actual income; it did not necessitate the imputation of income. (See *Destein*, *supra*, 91 Cal.App.4th at p. 1392 ["So long as a parent has an earning capacity, that is, the ability and the opportunity to earn income, the trial court *may* attribute income"], emphasis added; *Hinman*, *supra*, 55 Cal.App.4th at p. 999 ["As long as ability and opportunity to earn exists, . . . the court *has the discretion* to consider earning capacity"], emphasis added.) Because the court found, based on substantial evidence, that Tanya failed to secure employment despite making reasonable efforts to do so, the court was not required to impute income to her.

Wesley also asserts the family court erred by considering Tanya's parental obligations (including with respect to her child with another man) in its reasonable efforts analysis. The contention lacks merit. In considering the reasonableness of a parent's efforts to find work, a family court may look at "all the relevant circumstances" (*Hinman*, *supra*, 55 Cal.App.4th at p. 999), which can include consideration of the parent's caregiving obligations "consistent with the best interests of the supported children." (*Ibid.*) Here, the court did not find that Tanya's caregiving obligations wholly relieved her of the responsibility to look for work, and Tanya herself recognized she needed to secure employment—which stands this case in significant contrast to cases where parents have disclaimed responsibility to look for work entirely. (See, e.g., *id.* at p. 1000 [income imputed to parent who chose not to work solely because she was caring for three young children from another relationship].) The family court's

consideration given to Tanya's parental obligations was within appropriate bounds and consistent with the best interests of Wesley and Tanya's children.

Wesley also contends, without much elaboration, that the evidence was insufficient to show Tanya used her "best endeavours" to secure employment, as required by the parties' Hong Kong consent order. The argument is unavailing. The terms of Wesley and Tanya's private agreement do not not supersede applicable law. (*In re Marriage of Ayo* (1987) 190 Cal.App.3d 442, 448 ["Notwithstanding the right of parents to enter into agreements regarding child support and custody, such agreements are not the last word on the subject, for the law views the welfare of the children as a paramount concern"]; see also *Puckett v. Puckett* (1943) 21 Cal.2d 833, 839 [parents' marital settlement agreement may not, "insofar as the children are concerned, abridge the power of the court in appropriate proceedings to provide for the support of the children by their parents"].) The family court's application of the well-established reasonable efforts standard was appropriate under the circumstances (see *LaBass*, *supra*, 56 Cal.App.4th at pp. 1340-1341 [to the extent a marital settlement agreement incorporated terms regarding the mother's ability to complete her education that were inconsistent with the family court's child support order, the agreement was unenforceable as a matter of law]), and there was substantial evidence Tanya met that standard.

B. The Court Did Not Infringe Wesley's Due Process Rights

Wesley contends the family court deprived him of due process by preventing him from presenting evidence in support of

imputing income to Tanya. Specifically, Wesley complains the court improperly prohibited him from deposing or propounding written interrogatories to Tanya, from cross-examining her at the hearing, and from presenting expert testimony and documentary evidence in support of his position.

1. The court did not abuse its discretion in restricting discovery sought by Wesley

Family law proceedings are generally subject to the Civil Discovery Act (Code Civ. Proc., § 2016.010 et seq.), "[a]lthough some informality and flexibility have been accepted in" these proceedings. (*Elkins v. Superior Court* (2007) 41 Cal.4th 1337, 1354; accord, Fam. Code, § 210; *In re Marriage of Boblitt* (2014) 223 Cal.App.4th 1004, 1022.) In general, "any party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action or to the determination of any motion made in that action, if the matter either is itself admissible in evidence or appears reasonably calculated to lead to the discovery of admissible evidence." (Code Civ. Proc., § 2017.010.) That rule, however, "is not absolute." (*In re Marriage of Hixson* (2003) 111 Cal.App.4th 1116, 1122 (*Hixson*).) For example, a court may restrict the use of discovery methods where it determines "(1) [t]he discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive" or "(2) [t]he selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy, and the importance of the issues at stake in the litigation." (Code Civ. Proc., § 2019.030,

subd. (a).) We review a court order limiting discovery for abuse of discretion. (*Hixson*, *supra*, at p. 1123.)

Here, the family court did not abuse its discretion when it denied requests by Wesley to propound written interrogatories to Tanya and to take her deposition. Wesley told the court he wished to propound interrogatories relating to an abuse claim Tanya filed against him.[3] The family court could reasonably determine such questions were irrelevant to the issues of child support and imputation of income that were at hand.

With regard to the deposition issue, Wesley subpoenaed Tanya for a deposition in October 2015. He told the court he intended to take the deposition himself and "probably 90 percent" of it would relate to Tanya's abuse claim. He stated the deposition was also intended to uncover "all of the information that [Wesley] could have given to a vocational assessor . . . ."[4]

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[3] According to Wesley, Tanya filed a false claim that he abused their daughters. Wesley asserts the family court substantially curtailed Wesley's physical custody of his daughters for approximately seven months in response to that claim. Wesley asserts the court eventually determined the abuse claim was unfounded and accordingly restored his share of custody. He filed a motion to sanction Tanya for bringing the claim, and a hearing on that motion was scheduled for March 2016. Neither the question of sanctions nor the propriety of the abuse claim is before us in this appeal.

[4] Wesley said he was told by a vocational examiner—presumably Sidlow—that it would cost $3,000 to conduct a full assessment of Tanya but only $500 if the examiner could rely on a transcript of Tanya's deposition that included the questions he would have asked her.

The court declined to compel Tanya's deposition, explaining it did not see how deposing Tanya would be "helpful at this time." The court reasoned that Miller, the court-appointed vocational expert, could obtain information from Tanya that Wesley himself sought to elicit, it was important for Miller to interview Tanya personally in order to assess her credibility, and it would be expensive for Wesley to take a videotaped deposition as he proposed. The court also expressed concern that, given the observed hostility between the parties, the deposition would "turn into a fiasco."

The family court's refusal to authorize the deposition was not an abuse of its discretion. The questions Wesley proposed to ask Tanya were largely unrelated to the issues of child support and imputation of income that the court was asked to decide (and that are the subject of this appeal). Insofar as Wesley did seek to depose Tanya on matters related to the imputation of income, the family court reasonably determined those same issues would be better addressed through Miller's examination of Tanya. (See Code Civ. Proc., §§ 2019.030, subd. (a)(1) [discovery may be restricted where it "is obtainable from some other source that is more convenient[or] less burdensome"], 2025.420, subd. (b)(1) [court may order that no deposition be taken if good cause is shown the deposition would subject the deponent to "unwarranted annoyance . . . oppression, or undue burden"].) Wesley, moreover, did not argue that his personal deposition of Tanya would elicit information superior to what the vocational examiner would uncover. Indeed, his very reason for deposing Tanya on imputation of income was to provide the vocational examiner with information the examiner would otherwise need to obtain.

2. The court did not prejudicially deprive Wesley of his right to present evidence at the hearing

Wesley contends the family court refused to let him cross-examine Tanya, call expert witnesses, or introduce documentary evidence relating to Tanya's job search or employment opportunities in 2014-2015. Because the court did not award child support to either party for 2014, there could be no prejudicial due process violation concerning evidence pertaining to that year. In fact, Wesley himself stated at the hearing that the court should impute income beginning in January 2015. We therefore consider his due process claim only as it relates to support for 2015.

At a hearing on a motion to determine child support, the court may directly question witnesses. (Fam. Code, § 217, subd. (a).) When the family court scheduled the hearing in this case, it stated it would proceed in that manner. During the hearing, the court directly questioned each party, neither of whom was represented by counsel.

The record before us reveals no request by Wesley to directly question Tanya, and the absence of such a request forfeits the assignment of procedural error he raises only now.[5] (*In re Marriage of S.* (1985) 171 Cal.App.3d 738, 745 ["a person may waive the right of cross-examination"]; see also *In re*

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[5] Notably, the family court *did* allow Wesley to respond to Tanya's testimony, which prompted the court to question Tanya on certain issues he raised. For example, the court questioned Tanya in greater detail regarding her job search efforts in 2015 and 2016 after hearing Wesley's comments.

Marriage of Minkin (2017) 11 Cal.App.5th 939, 958-959 [wife forfeited due process challenge based on alleged prevention of right to cross-examine husband where she failed to raise the issue in the trial court]; *Corbett v. Otts* (1962) 205 Cal.App.2d 78, 85-86.)

Wesley also contends the family court wrongly prevented him from calling vocational experts Sidlow and Miller to testify. (Fam. Code, § 217, subd. (a) ["[A]bsent a stipulation of the parties or a finding of good cause," the family court must "receive any live, competent testimony that is relevant and within the scope of the hearing . . ."]; Cal. Rules of Court, rule 5.113.) The contention does not warrant reversal on the record presented.

When Wesley asserted during the hearing that both experts would support his argument to impute income to Tanya if called to testify, the court asked him for an offer of proof. We doubt the offer Wesley made sufficiently alerted the family court to any reason to permit live testimony. (Evid. Code, § 354 ["A verdict or finding shall not be set aside, nor shall the judgment or decision based thereon be reversed, by reason of the erroneous exclusion of evidence unless the court which passes upon the effect of the error or errors is of the opinion that the error or errors complained of resulted in a miscarriage of justice and it appears of record that: [¶] (a) The substance, purpose, and relevance of the excluded evidence was made known to the court by the questions asked, an offer of proof, or by any other means . . ."].)

Nevertheless, on a charitable reading, Wesley asserted Sidlow could testify to Tanya's opportunity and ability to work in 2015. Sidlow, however, had no direct contact with Tanya and no information on her efforts to obtain employment during that year. He accordingly had no basis to opine on the reasonableness

of her job search, and because the family court's ruling on imputation of income was based on its finding that Tanya made reasonable efforts to secure employment, Wesley cannot show how Sidlow's testimony about job opportunities for Tanya in April 2015 would have altered the court's decision.[6] (See *Property Reserve, Inc. v. Superior Court* (2016) 6 Cal.App.5th 1007, 1020 [no prejudicial error where appellants did "not show how they would have received a more favorable outcome" had the court granted their requests].)

Wesley's contention regarding Miller's testimony is similarly deficient. While Miller's report assessed Tanya's earning capacity—i.e., her ability and opportunity to work—the report drew no conclusion regarding the reasonableness of Tanya's efforts to secure employment in 2015 or otherwise. The family court found there was "no evidence that Ms. Miller would say anything different from what[was] in her report" and Wesley's conclusory suggestion to the contrary on appeal—that Miller would have opined Tanya failed to make reasonable efforts—is without foundation and insufficient.

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[6] Wesley's contention that the family court erred in not considering Sidlow's declaration is unavailing for the same reason.

DISPOSITION

The order is affirmed. Respondent shall recover her costs on appeal.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

BAKER, Acting P. J.

We concur:

MOOR, J.

KIM, J.